



# MEMORANDUM

## City of Watertown Planning Office

245 Washington Street, Room 304

Watertown, New York 13601

315-785-7730

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TO: Planning Board Members

FROM: Kenneth A. Mix, Planning and Community Development Coordinator 44m

SUBJECT: Fence Zoning Amendment

DATE: October 25, 2011

The City Council has been discussing the revision of the fence section of the Zoning Ordinance. The attached draft dated October 25, 2011 is the result of two meetings with the City Council. They have referred it to the Planning Board for review and recommendation.

As background information, memos to the City Council dated September 8, 2011 and October 13, 2011, and Minutes of their September 12, 2011 and October 17, 2011 meetings are also attached.

This discussion of fencing was precipitated by a complaint from a property owner on Haley Street about a neighbor's fence that they feel impedes their use of their driveway. The Council has considered whether to use setbacks, lower height limits or greater space within the fence to increase visibility and has decided to include all of them in the draft.

cc: Robert J. Slye, City Attorney  
Justin Wood, Civil Engineer I

## **Draft Fence Zoning Amendment**

**10/25/11**

### **§ 310-1. Terms defined; word usage.**

**B.** For the purpose of this chapter, certain words and terms shall have the following meanings:

*FENCE – A constructed barrier of wood, masonry, stone, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.*

*STREET LINE – A lot line separating a street from the abutting property.*

### **§ 310-26.1. Fences.**

**A.** No person, firm or corporation shall commence the erection, construction, or alteration of any fence without first applying for, and obtaining, a fence permit from Code personnel for each such fence.

**B.** Application for a fence permit shall be made to Code personnel on forms provided by Code personnel and shall contain the information requested on such forms plus any additional information as may be determined as necessary by Code personnel for duly processing such application.

**C.** All applications shall be signed by the owner of the real property upon which such work is to be performed. Where such application is made by a person other than the owner, it shall be accompanied by written authorization of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

**D.** In all districts, except Light and Heavy Industrial Districts, no fence shall be more than six feet in height, except as otherwise restricted below. In Light and Heavy Industrial Districts no fence shall be more than eight feet in height.

*E. Fences located less than the required setback distance for a building from a street line or the existing building distance from the street line, whichever is the lesser distance, shall not be more than three (3) feet in height and shall have open spaces equal to at least 50% of the area of each panel.*

**F.** The height of a fence shall not include post finials extending above the fence panels.

*G. No fence shall be located less than five (5) feet from a street line, unless the open spaces of the fence equal at least 80% of the area of each panel.*

*H. No fence shall be located less than five (5) feet from a neighbor's driveway or a shared driveway, unless the open spaces of the fence equal at least 80% of the area of each panel.*

**I.** The side of the fence facing away from the fence owner's property shall have a finished quality.

*J. Chainlink fences shall not be located less than the required setback distance for a building from a street line or the existing building distance from the street line, whichever is the lesser distance, except in Light and Heavy Industrial Districts.*

**K.** Electric fences shall not be allowed.

**L.** Barbed-wire fences shall not be allowed, except on top of chain link fences at least six feet in height in Light and Heavy Industrial Districts.

#### **§ 310-27. Visibility at corners.**

In any Residence District no structure, fence, or shrubbery over three feet in height shall be maintained on any corner lot within a triangular area formed by lot lines along the streets to the points on such lines a distance of 40 feet from their intersection and a line connecting such points.

September 8, 2011

To: The Honorable Mayor and City Council

From: Mary M. Corriveau, City Manager

Subject: Review of Zoning Regulations, Fences

At the request of Council Member Jeffrey M. Smith the attached materials have been compiled for a discussion on the City's current fence regulations. A printout of the sections of the City Code related to fences is provided along with the memorandums presented to the City Council in 2006 on this subject and excerpts from the City Council meeting discussions regarding proposed changes to the regulations.

The March 29, 2006 memorandum from Planning and Community Development Coordinator Kenneth A. Mix provides the history on the development of the City's fence regulations along with research on twelve (12) other cities in New York State and their fence regulations.

§ 310-26.1 Fences.

[Added 2-18-2003; 3-20-2006; 6-19-2006]

A.

No fence shall be more than six feet in height, except in Light and Heavy Industrial Districts where no fence shall be more than eight feet in height.

B.

Fences located in the front yard shall not be more than four feet in height and shall be at least 33% transparent, except in Light and Heavy Industrial Districts. Examples include, but are not limited to, wrought iron, split rail, picket or chain link fences.

C.

On corner lots, fences located in the front yard and side yard on the street side or in the rear yard within 20 feet of the street/side lot line shall not be more than four feet in height and shall be at least 50% transparent.

D.

The side of the fence facing away from the fence owner's property shall have a finished quality.

E.

Electric fences shall not be allowed in any district.

F.

Barbed-wire fences shall not be allowed except on top of chain link fences at least six feet in height in Light and Heavy Industrial Districts.

G.

No person, firm or corporation shall commence the erection, construction, or alteration of any fence without first applying for, and obtaining, a fence permit from Code personnel for each such fence.

H.

Application for a fence permit shall be made to Code personnel on forms provided by Code personnel and shall contain the information requested on such forms plus any additional information as may be determined as necessary by Code personnel for duly processing such application.

I.

All applications shall be signed by the owner of the real property upon which such work is to be performed. Where such application is made by a person other than the owner, it shall be accompanied by written authorization of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

City of Watertown, NY

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§ 310-27 Visibility at corners.

[Amended 6-19-2006]

In any Residence District no structure, fence (which is less than 50% transparent), or shrubbery over three feet in height shall be maintained on any corner lot within a triangular area formed by lot lines along the streets to the points on such lines a distance of 40 feet from their intersection and a line connecting such points. Fences which are 50% transparent or more, such as wrought iron, chain link, or split rail, are allowed in this triangular area; the maximum height shall be four feet.

March 29, 2006

To: The Honorable Mayor and City Council

From: Kenneth A. Mix, Planning & Community Development Coordinator

Subject: Fence Regulations

The purpose of this memorandum is to provide the background on fence regulations within the City's zoning ordinance, state some of the concerns voiced by fence companies, and to give information on what other cities have for regulations in preparation for the City Council work session on April 10, 2006. The subject of fence regulations is on the agenda at the request of the Council after hearing criticism of the current regulations by an owner of a local fence company.

In February 2003, the City Council amended the Zoning Ordinance to include regulations for fences. Before that, the only regulation that applied to fences was Section 310-27, which states that structures, fences and shrubs within a 40' triangle on corner lots in residential districts cannot be over 3' high. This section has been in effect since 1959.

The current fence ordinance (Section 310-26.1) is attached for review. The regulations that have received the most criticism are those pertaining to fences in front yards and side yards facing a street. The height limitation and transparency requirement are said to be too restrictive and do not allow the use of standard fencing material.

The City Council discussed these issues at the December 9, 2002 work session before the final version of the ordinance was drafted and adopted. The ordinance restricts fence heights to 3 feet, requires them to be fifty percent transparent and prohibits the use of chain link in the front yard. The same restrictions apply to side yards on a street side and rear yards within 20 feet of a street lot line. The Council's concern at the time was safety. The purpose was to protect visibility of drivers exiting driveways, while controlling aesthetics by prohibiting chain link in the front yard. Three feet is considered low enough for most drivers to see over and the transparency gives a better opportunity to see small children who may be approaching on the sidewalk.

During the preparation of this memo, staff had conversations with representatives of two fence companies. Some of their stated concerns are as follows. There is concern that these stipulations limit a homeowner's choice of fencing materials. Standard wood fencing comes in 4 and 6-foot high sections. The specifications for a standard picket fence are 4" slats with 2" spacing which represents 33 percent transparency. A solid wood or traditional picket fence is not permitted under the current

restrictions. Under these restrictions, fence companies must custom build fences, which increases the costs to the homeowners. They stated that corner lot homeowners have complained that this reduces their street side and rear yard privacy. In order to construct a 6 foot high fence on a corner lot, the fence would have to be located 20 feet in along the corner street side, thus reducing the fenced in area. They've also stated that 3-foot high fences won't contain dogs, and some children, very well.

The City Council asked Staff to find out how other communities regulate fences. Twelve cities in New York State were surveyed and the results are summarized in the attached table. Three of the cities have a front yard transparency restriction, while eight have corner lot side yard height restrictions of 4' or less. Rome restricts front yard fences to 3.5 feet and the rest use 4 feet. Nearly all of the cities limit the height to 3' in a line of sight triangle on corners that ranges from 20' to 65'. Nine municipalities require a permit and only one city (besides Watertown) has no fee for the permit. The rest charge between \$15.00 - \$75.00.

**Table 1-1**  
**Fence Regulations for Local Cities**

City	Residential Zone Front Yard	Residential Zone Interior Lot Side/Rear Yard	Residential Zone Corner Lot * Side Yard	Comm. & Ind. Zone Rear Yard	Permit Required
Troy	4'	8'	8'	10'	Yes
Kingston	4'	6.5'	4'	6.5'	Yes
Rome	42"	6'	42"	10'	No
Saratoga Springs	6'	6'	6'	8'	No
Ogdensburg	4'	6-1/2'	4'	6.5'	Yes
Auburn	4' (transparent)	6'	4' (transparent)	8'	Yes
Utica	4' (can't be solid) **	6'	4' (can't be solid) **	10'	Yes
Elmira	4'	7'	7'		Yes
Syracuse	4' (transparent) **	6'	4' (transparent) **	6'-8'	Yes
Oswego	4'	6'	4'	8'	Yes
Cortland	4'	6'	4'	7'-10'	Yes
Ithaca	Not restricted	Not restricted	Not restricted	Not restricted	No
Watertown	3' (transparent)	6'	3' (transparent)		Yes

\* The corner lot restrictions are for fences located outside the area known as an intersection's line of sight triangle. Most zoning ordinances have more restrictive regulations for any structure located within this triangular area.

\*\* Most front yard fences in Auburn, Utica and Syracuse are chain link. Wrought iron is allowed but not usually used due to its expense. Currently, Watertown's zoning regulations prohibit chain link fences in the front yard.



**COUNCIL WORK SESSION & BUDGET REVIEW  
CITY OF WATERTOWN**

May 8, 2006

6:00 P.M.

**MAYOR JEFFREY E. GRAHAM PRESIDING**

**PRESENT:**           COUNCILMAN STEPHEN J. BRADLEY  
                          COUNCILMAN PETER L. CLOUGH  
                          COUNCILMAN TIMOTHY R. LABOUF  
                          COUNCILMAN JEFFREY M. SMITH  
                          MAYOR GRAHAM

**ALSO PRESENT:**   CITY MANAGER MARY M. CORRIVEAU

Moment of silence was held in remembrance of the 10 Fort Drum soldiers who lost their lives in a helicopter accident this weekend.

Pledge of Allegiance was given.

**Fence Regulations**

Council reviewed the report that had been prepared by Mr. Mix regarding the background on fence regulations in the City's zoning ordinance, stating the concerns voiced by fence companies and giving information on what other cities have for regulations.

A representative from Butler Fence addressed the chair explaining that standard wood fencing comes in 4 and 6 foot high sections. The specifications for a standard picket fence are 4" slats with 2" spacing which represents 33% transparency. He also commented that under the zoning code, chain link fences are not allowed. He also advised Council that he gets many requests for chain link from homeowners with pets and also from daycare providers. He explained that a 3' fence is too short. He also explained that that standard picket fence does lend itself to good visibility. He showed Council examples of fencing in brochures that are not allowed due to the City's current restrictions. He suggested that the wording of the ordinance state "not solid" instead of a percentage.

Councilman Smith questioned how small children could be seen while backing out of a driveway if there wasn't at least 50% transparency and a 3' height.

Mr. commented that drivers should be responsible to watch for people as they are exiting any driveway.

Mrs. Corriveau referred to fence examples that were listed as not solid, but clearly without visibility through it.

Councilman Bradley suggested that perhaps a 3' setback from the sidewalk would be a good idea.

Mr. McWayne explained that the 3' fence was a result of needing to make sure there was visibility on corner lots.

Councilman LaBouf commented that a city resident should be able to put up a 4' fence unless they are on a corner lot, where the zoning code would take over. He also remarked that a chain link should be allowed also.

Mayor Graham suggested that Section B of 310-26.1 should be changed to allow four foot fences with 33% transparency in the front yard. The corner fences which can also be four foot in height must be at least 50 % transparent. Chain link fences would be allowed.

#### **National Incident Management System (NIMS) Training**

Mr. White, Confidential Assistant to the City Manager, explained the training that Council would have to take under this new FEMA system. Mr. White will supply Council with the paper copy of the course material.

#### **Police Department**

Mayor Graham complimented Capt. Reff on the Police Annual Report. Capt. Reff explained that Lt. Wells was responsible for most of the work on it.

Councilman Bradley asked if the City tries to hire from other departments.

Capt. Reff explained that they do advertise through word of mouth to other departments. One officer was recently appointed from another department. However, departments are not too fond of other municipalities hiring their officers. It does save a lot of money in training costs. He also advised Council that the current academy class will be ready for the street on August 16<sup>th</sup>. Capt. Reff explained that the department is barebones. One officer is out on maternity leave, one is out because of extended injuries and three are in the academy. While they are counted in the total officers, they are not available to work at this time.

Councilman Bradley asked if the overtime was affected by not having enough staff.

Mayor Graham asked if the academy in Canton is working better than when the academy was held here.

Capt. Reff explained that when it was held here, the department had more opportunity to interact with the students. Now, the department has to wait 13 weeks to see what the training was and exactly what has been learned by the officers.

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May 11, 2006

To: The Honorable Mayor and City Council

From: Kenneth A. Mix, Planning & Community Development Coordinator

Subject: Amendment of City Code, Section 310-26.1, Fences, and Section 310-27, Visibility at Corners

Attached are revised Sections 310-26.1 and 310-27 of the City Code that reflect Staff's understanding of how the City Council wishes to change the fence regulations from the discussions held at the Work Session on Monday, May 8, 2006.

A change to the fence regulations is an amendment to the Zoning Ordinance. The procedure for a Zoning Amendment includes reviews by the City and County Planning Boards and a public hearing. If the City Council is satisfied with the attached changes, Staff will start the review process.

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## PROPOSED REGULATIONS

Stricken text is to be deleted

*Italicized* text is to be added.

### §310-26.1 Fences. [Added 2-18-2003]

- A. No fence shall be more than six feet in height, except in Light and Heavy Industrial Districts where no fence shall be more than eight feet in height.
- B. Fences located in the front yard shall not be more than ~~three~~ *four* feet in height and shall be at least ~~50%~~ *33%* transparent, except in Light and Heavy Industrial Districts. Examples include, but are not limited to, wrought iron, split rail, picket, or *chain link* fences.
- ~~C. Chain link fences are prohibited in the front yard, except in Light and Heavy Industrial Districts. Deleted June 2006~~
- D. On corner lots, fences located in the *front yard and* side yard on the street side or in the rear yard within 20 feet of the street/side lot line shall *not be more than 4 feet in height and shall be at least 50% transparent.* ~~have the same restrictions as fences located in the front yard.~~
- E. The side of the fence facing away from the fence owner's property shall have a finished quality.
- F. Electric fences shall not be allowed in any district.
- G. Barbed wire fences shall not be allowed except on top of chain link fences at least six feet in height in Light and Heavy Industrial Districts.

### §310-27. Visibility at corners.

In any Residence District no structure, fence (*which is not at least 50% transparent*), or shrubbery over three feet in height shall be maintained on any corner lot within a triangular area formed by lot lines along the streets to the points on such lines a distance of 40 feet from their intersection and a line connecting such points. *Fences which are over 50% transparent such as wrought iron, chain link, or split rail are allowed in this triangular area; maximum height shall be 4 feet.*

Excerpt from 5/15/06 City Council meeting minutes.

**COUNCIL DISCUSSED THE FOLLOWING TOPICS**

**Revised Fence Ordinance**

Mrs. Corriveau advised Council to review the revised Code for fences and visibility at corners.

Mayor Graham reiterated that the Code allows four foot fences everywhere but at corners where the fences must be 50% transparent. He told staff they made a good effort at amending it.

## 2. Review of Zoning Regulations, Fences

A complaint from a resident in regards to the fence at 157 Haley St. has led to this discussion of zoning regulations for fencing.

Mayor Graham presented pictures of this fence during winter and summer seasons. This fence does impair the view of a vehicle backing out of the adjacent driveway and makes snow removal difficult in the winter. It does comply with the ordinance and the property owner was given a fence permit. He commented that maybe the 33% transparency and 3 to 4 foot height is not a good idea. He also questioned the need for a fence in the front yard.

Council Member Macaluso agreed that the fence regulations need to be changed and that fences should be set back.

Council Member Smith suggested that the transparency be increased to 50% and the height lower. In addition, there is a need to look at transparency of the fence in a perpendicular angle.

Mrs. Corriveau commented that any fence will not have transparency at some point.

Mayor Graham commented that originally a chain link fence was not preferred for the front yard but may be the better fence.

Council Member Macaluso commented that fencing should not be allowed to go all the way to the sidewalk.

Council Member Burns agreed that this is not an acceptable situation. She also mentioned that some fences decrease in height as they go towards the sidewalk. She suggested that the Planning Board look at the regulation and give the Council their recommendations. She commented that she personally would not like to see any fence all the way to the sidewalk.

Council Member Smith wondered if Codes Department should be permitted to reverse the fence permit if the fence causes visibility issues.

Council Member Macaluso felt that this is too much responsibility on the Codes Department and it would be subjective. She questioned if there should be a separate standard for fences next to driveways.

Council Member Butler commented that the height of fences should be shortened and a step back should be done. He referred to a fence on Holcomb Street in which this was done.

Council Member Burns stated that the purpose of the fence needs to be considered. Planning Board should listen to the concerns discussed tonight and give input.

Council Member Butler did not object to getting Planning Board's input but wants the Council concerns with set backs, height and transparency considered.

Council Member Butler and Smith agreed that chain link fencing looks bad and should be prohibited.

Mrs. Corriveau stated that the Council needs to define set back if the property does not have a sidewalk.

Mr. McWayne stated that in this case 50% transparency would not have made a difference. The problem is more due to the fence being too close to the neighbor's driveway.

Mr. Mix commented that if the property is only 60 ft wide and the set back is defined as 5 ft then the property owner would lose access to 10 ft of their yard.

Mayor Graham suggested that the set back from the neighbor's driveway should be defined to assist in snow removal.

Council Member Burns stated that the concerns need to be related to the Planning Board and have them report their recommendation back to Council.

Mayor Graham stated staff should prepare a proposal to be reviewed by Council before it is submitted to the Planning Board.

Mayor Graham asked if there was anything that could be done in this case since the fence permit was granted.

Council Member Macaluso stated that Codes Department already looked at this fence and it passed.

Mrs. Corriveau stated that the resident with concerns could ask for a review through the ZBA.

Council Member Butler stated that ZBA will only interpret the code as written in black and white. He does not feel this process will work. He suggested that Council try speaking with the owner of 157 Haley Street.

Mayor Graham was agreeable to this and will try to speak to the property owner.

October 13, 2011

To: The Honorable Mayor and City Council

From: Kenneth A. Mix, Planning and Community Development Coordinator

Subject: Fence Zoning Amendment

Attached is a draft of possible changes to the fence regulations within the Zoning Ordinance. I believe it contains all of the suggestions I heard from the City Council at the September 17, 2011 Work Session and from Staff. Every section does not have to be adopted and the setbacks and heights can be adjusted as you see fit. Italicized paragraphs are different options.

The first four paragraphs are a reordering and rewording of existing paragraphs.

Paragraph "E" limits the height of fences in any yard facing a street to three (3) feet.

Paragraph "F" codifies the current practice of not counting finials when measuring height.

Paragraph "G" requires a three (3) foot setback from any street line, which is typically along the sidewalk.

Paragraph "H" requires a three (3) foot setback from a neighbor's or a shared driveway. This is related to an existing driveway and is not related to where the property line is, except where the driveway is farther than three (3) feet away from the property line. This does not stop a neighbor from placing a future driveway closer than 3 feet to your existing fence, thereby creating his own problem with visibility.

Paragraph "I" requires a triangle area with no fences more than three (3) feet in height on either side of any driveway at the street. This is an alternative to reducing the maximum height for all frontyard fences from 4 feet and the setbacks.

Paragraph "J" changes how the percentage of transparency is described and increases the amount of openings to 50%. A transparency requirement may not be necessary if the setback requirements and the three (3) feet height limit are adopted.

The last three paragraphs are reordered existing paragraphs.



Section 310-27 pertaining to visibility at corners may have to be amended to coincide with what is adopted for fences.

A criticism of having setbacks for fences is that they are traditionally used for demarcating boundaries. If they are set back, then the setback area is effectively being given to the neighboring property owner for their use.

Another alternative that was suggested is prohibiting fences in front yards. If that is the route the City Council wishes to take, then several of the paragraphs described above will have to be changed.

After the City Council has decided on which regulations you want included, the proposal will be referred to the City and County Planning Boards, as required by Section 310-66 of the City Code and Section 239-m of New York State General Municipal Law, respectively. It will also require a public hearing pursuant to New York State General City Law Section 83.

The concept of grandfathered non-conforming situations will apply to this amendment. Therefore, it can't be applied retroactively to fences that have already been legally installed under current regulations.

## Draft Fence Zoning Amendment

10/13/11

### § 310-1. Terms defined; word usage.

B. For the purpose of this chapter, certain words and terms shall have the following meanings:

*FENCE – A constructed barrier of wood, masonry, stone, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.*

*STREET LINE – A lot line separating a street from the abutting property.*

### § 310-26.1. Fences.

A. No person, firm or corporation shall commence the erection, construction, or alteration of any fence without first applying for, and obtaining, a fence permit from Code personnel for each such fence.

B. Application for a fence permit shall be made to Code personnel on forms provided by Code personnel and shall contain the information requested on such forms plus any additional information as may be determined as necessary by Code personnel for duly processing such application.

C. All applications shall be signed by the owner of the real property upon which such work is to be performed. Where such application is made by a person other than the owner, it shall be accompanied by written authorization of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

D. In all districts, except Light and Heavy Industrial Districts, no fence shall be more than six feet in height, except as otherwise restricted below. In Light and Heavy Industrial Districts no fence shall be more than eight feet in height.

*E. Fences located less than the required setback distance for a building from a street line or the existing building distance from the street line, whichever is the lesser distance, shall not be more than three (3) feet in height.*

F. The height of a fence shall not include post finials extending above the fence panels.

*G. No fence shall be located less than three (3) feet from a street line.*

**H.** No fence shall be located less than three (3) feet from a neighbor's driveway or a shared driveway.

**I.** Where a driveway intersects with a street, no fence shall be more than three (3) feet in height within a triangle on either side of the driveway formed by the street line and a line created by the edge of the driveway to the points on such lines a distance of ten (10) feet from their intersection and a line connecting such points. **[This stepdown is an alternative to reducing fence heights from 4' to 3' and setbacks.]**

**J.** Fences located less than the required setback for a building from a street line or the existing building setback from the street line, whichever is the lesser distance, shall have open spaces equal to at least 50% of the area of each panel. **[This is an alternative to reducing fence heights from 4' to 3' and setbacks.]**

**K.** The side of the fence facing away from the fence owner's property shall have a finished quality.

**L.** Electric fences shall not be allowed.

**M.** Barbed-wire fences shall not be allowed, except on top of chain link fences at least six feet in height in Light and Heavy Industrial Districts.

## **Fence Zoning Amendment**

Kenneth Mix, Planning Coordinator, reviewed the Fencing Zoning Amendment memo and the Draft Fence Zoning Amendment. He stated the main concern brought up at the work session was the visibility of driveways. He mentioned that the different options included lowering the height, reducing the spacing to see through, setbacks from the driveway and sidewalks, creating a triangular area with a step-down effect or not allowing front yard fencing. He said that once Council makes a decision, he needs to ensure that nothing conflicts with each other.

Mayor Graham stated that not many front yard fences add a lot to the view of a given street. He agrees that reducing the height, using setbacks and creating a triangular area are good options. He added that Council might not want to allow front yard fences.

Council Member Macaluso remarked that she does not think Council should not allow front yard fences.

Council Member Smith mentioned a front yard fence on Washington Street constructed from wrought iron and stated that it is aesthetically nice while maintaining visibility.

Council Member Burns agreed that wrought iron is aesthetically pleasing and does not block any view. She agreed with the Mayor in that front yard fences are not good for a City setting but does not want to infringe on property owners' rights. She would like to see all of Council's suggestions go to the Planning Board for review and get their recommendation.

Mayor Graham asked if Council is trending towards lower heights or setbacks. He stated that he is not comfortable with fences going right up to sidewalks or property lines.

Council Member Smith agreed that there needs to be setbacks but his concern is that property owners will not want to give up that much of their property on the other side of the fence.

Mr. Mix confirmed for Mayor Graham that structures need to be 5 feet from the property line in the side yard and 3 feet from the property line in the back yard.

Council Member Butler commented on section H that states no fence can be located less than 3 feet from a neighbor's driveway or a shared driveway. He stated this would make a lot of fences impossible. He said it is unrealistic for Council to require this section.

Mr. Mix pointed out to Council that it is difficult to consider every situation because there will always be exceptions to the typical situation.

Council Member Butler commented that safety is the most important issue that has been brought to Council's attention. He stated that the wrought iron fence on Washington Street is more than 80% transparency. He suggested that a better view will come from increasing the transparency regardless of the height, type of corner or angle of the fence. He is in favor of increasing the transparency requirement to 80% which would limit the type of fence material available.

Mr. Mix clarified that chain link fences are allowed.

Council Member Smith asked if the ordinance could state that a review board could decide on a case that is an exception to the usual situation.

Attorney Slye responded that the Code Department needs to follow statutes that Council sets forth. He stated that variances should be requested through the Zoning Board of Appeals.

Mayor Graham asked if the consensus of Council is to not allow chain link fences in the front yard.

Council Member Smith stated that commercial and heavy industry zones should be allowed to install chain link fences.

Council Member Burns stated she does not like chain link fences in residential areas.

Council Member Macaluso pointed out that if the transparency is limited to 80%, there are not many choices for containing animals.

Mayor Graham said that fences need to be setback at least 3 feet especially during winter months.

Council Member Butler suggested having the option of a 80% transparent fence or a 3 foot fence with a setback and 50% transparency. He mentioned that this option should help the homeowner trying to contain a small animal.

Mr. Mix defined the street line as the lot line that divides the property from the street. He stated that usually the property line is the edge of the sidewalk or a line closer to the house. He further clarified the front yard is anything in front of a line from the front edge of the house to the side property line, the back yard is anything behind a line from the back edge of the house to the side property line and the side yard is the area in between the two lines.

Mayor Graham commented that homeowners have a right to privacy in their back yard but a front yard fence typically is not for privacy and more for decoration or containing a animal. He advised that Council's suggestions should go to the Planning Board.

Mrs. Corriveau asked if Council wants to change the transparency from 33% to 50%.

Council Member Smith replied that 50% transparency should only be allowed with setbacks.

Mayor Graham asked if the Code Department sees a safety issue, should they be allowed to make additional requirements for the homeowner.

Council Member Macaluso does not agree with Mayor Graham and stated that the Code Department needs to follow standards to avoid future complaints.

Attorney Slye stated that the proposed situation relies on judgment calls and this should not be left up to an individual Codes Officer.

Mrs. Corriveau advised Council that the proximity of the tree caused concern with the Haley Street fence as well. She wondered if this issue should be addressed when reviewing the language of the amendment.

Council Member Smith asked if the code could deal with the transparency of the driveway in addition to the transparency of the fence if an object is in close proximity.

Council Member Burns suggested that this be added to the issues being given to the Planning Board.

Council Member Butler pointed out that the tree will grow and the diameter will constantly be increasing.

Mrs. Corriveau clarified that if there is a tree in close proximity should it at least be considered prior to approving the fence.

Mayor Graham asked Mr. Mix to relay everything that was discussed to the Planning Board for the November 1<sup>st</sup> meeting.